

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
AND THE
BOARD OF GOVERNORS OF THE PATIENTS COMPENSATION FUND
AMENDING AND REPEALING AND RECREATING A RULE

The office of the commissioner of insurance and the board of governors of the patients compensation fund adopt an order to amend s. Ins 17.01 (3), s. Ins 17.28 (6a), and to repeal and recreate s. Ins 17.28 (6), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2001.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

Statutes interpreted: s. 655.27 (3), Stats.

The commissioner of insurance, with the approval of the board of governors (board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 2001. These fees represent a 20% decrease compared with fees paid for the 2000-01 fiscal year. The board approved these fees at its meeting on February 28, 2001, based on the recommendation of the board's actuarial and underwriting committee.

The board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the director of state courts. This rule implements the director's funding level recommendation by establishing mediation panel fees for the next fiscal

year at \$ 38.00 for physicians and \$2.00 per occupied bed for hospitals, representing no increase from 2000-01 fiscal year mediation panel fees.

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No. 01-035, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2001.

The commissioner expects the permanent rule will be filed with the secretary of state in time to take effect October 1, 2001. Because the fund fee provisions of this rule first apply on July 1, 2001, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 16, 2001.

SECTION 1. Ins 17.01 (3) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. (intro.) The following fee schedule shall be effective July 1, ~~2000~~2001:

(a) For physicians-- \$38.00

(b) For hospitals, per occupied bed-- \$2.00

SECTION 2. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 2001, to and including June 30, 2002:

(a) Except as provided in pars. (b) to (f) and sub. (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$1,538	Class 3	\$6,385
Class 2	\$2,769	Class 4	\$9,231

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes	\$923
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(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$615	Class 3	\$2,552
Class 2	\$1,107	Class 4	\$3,690

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures:

\$385

(f) For a physician for whom this state is not a principal place of practice:

Class 1	\$769	Class 3	\$3,191
Class 2	\$1,384	Class 4	\$4,614

(g) For a nurse anesthetist for whom this state is a principal place of practice:

\$378

(h) For a nurse anesthetist for whom this state is not a principal place of practice:

\$189

(i) For a hospital:

1. Per occupied bed \$93; plus

2. Per 100 outpatient visits during the last calendar year for which totals

are available: \$4.65

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed	\$17
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(k) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of partners and employed physicians and nurse anesthetists is from 2 to 10

	\$53
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b. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100

	\$529
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c. If the total number of partners and employed physicians and nurse anesthetists exceeds 100

	\$1,322
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2. The following fee for each of the following employees employed by the partnership as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10 \$53

b. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, all of the following fees:

1. a. If the total number of employed physicians and nurse anesthetists is from 1 to 10 \$53

b. If the total number of employed physicians and nurse anesthetists is from 11 to 100 \$529

c. If the total number of employed physicians or nurse anesthetists exceeds 100 \$1,322

2. The following for each of the following employees employed by the corporation as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385
Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(n) For an operational cooperative sickness care plan as described under s. 655.002 (1) (f), Stats., all of the following fees:

1. Per 100 outpatient visits during the last calendar year for which totals are available \$.11

2. 2.5% of the total annual fees assessed against all of the employed physicians.

3. The following for each of the following employees employed by the operational cooperative sickness plan as of July 1, 2001:

Employed Health Care Persons	July 1, 2001 Fund Fee
Nurse Practitioners	\$ 385

Advanced Nurse Practitioners	538
Nurse Midwives	3,385
Advanced Nurse Midwives	3,538
Advanced Practice Nurse Prescribers	538
Chiropractors	615
Dentists	308
Oral Surgeons	2,308
Podiatrists-Surgical	6,538
Optometrists	308
Physician Assistants	308

(o) For a freestanding ambulatory surgery center, as defined in s. HFS 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available \$22

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 7% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.
2. 10% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 3. Ins 17.28 (6a) is amended to read:

Ins 17.28 (6a) FEES FOR OCI APPROVED SELF-INSURED HEALTH CARE PROVIDERS. The following fee schedule is in effect from July 1, ~~2000~~ 2001 to and including June 30, ~~2001~~ 2002 for OCI approved self-insured health care providers: ~~who elect, pursuant to s. 655.23 (4) (c) 2., Stats., to increase their per occurrence limit to \$800,000 for each occurrence on or after July 1, 1999, provided such self insured provider has filed an amended self insured plan document reflecting the increased~~

~~coverage levels with the office of the commissioner of insurance and with the patients
compensation fund on or before August 15, 1999:~~

The fees set forth in sub. (6) ~~multiplied by 1.073.~~

SECTION 4. EFFECTIVE DATE. This rule will take effect on July 1, 2001.

Dated at Madison, Wisconsin, this ____ day of _____ 2001.

/s/ _____
Connie L. O'Connell
Commissioner of Insurance

FISCAL ESTIMATE DOA-2048 N <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div><input type="checkbox"/> ORIGINAL</div> <div><input type="checkbox"/> UPDATED</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <div><input type="checkbox"/> CORRECTED</div> <div><input type="checkbox"/> SUPPLEMENTAL</div> </div>		2001 Session	
		LRB or Bill No./Adm. Rule No. Ins. 17.01, 17.28	
		Amendment No. if Applicable	
Subject Relating to annual Patients Compensation Fund fees for fiscal year 2001-2002			
Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation. <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;"> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/> Increase Existing Appropriation</div> <div><input type="checkbox"/> Increase Existing Revenues</div> </div> <div style="display: flex; justify-content: space-between;"> <div><input type="checkbox"/> Decrease Existing Appropriation</div> <div><input type="checkbox"/> Decrease Existing Revenues</div> </div> <div><input type="checkbox"/> Create New Appropriation</div> </div> <div style="width: 35%; border-left: 1px solid black; padding-left: 10px;"> <input type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div>			
Local: <input type="checkbox"/> No local government costs <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="width: 30%;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 35%;"> 5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts </div> </div>			
Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations	
Assumptions Used in Arriving at Fiscal Estimate The Patients Compensation Fund (Fund) is a segregated fund. Annual Fund fees are established to become effective each July 1, based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board of Governors at its February 28, 2001 meeting. There is no effect on GPR. Estimated revenue from fees, for fiscal year 2001-2002, is approximately \$28.8 million, which represents a 20% decrease to fiscal year, 2000-2001 fee revenue.			
Long-Range Fiscal Implications None			
Agency/Prepared by: (Name & Phone No.) PCF/Theresa Wedekind (608)266-0953		Authorized Signature/Telephone No. /s/ Connie L. O'Connell (608)2671233	
		Date March 13, 2001	